

§ 250.312

capacity of 200 ml. or more except where expressly applied to liquor bottles of less than 200 ml. capacity.

[T.D. 6954, 33 FR 6818, May 4, 1968. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-34, 41 FR 46864, Oct. 26, 1976]

§ 250.312 Standards of fill.

Distilled spirits brought into the United States from Puerto Rico or the Virgin Islands in containers of 1 gallon (3.785 liters) or less for sale shall be in liquor bottles, including liquor bottles of less than 200 ml capacity, which conform to the applicable standards of fill provided in § 5.47 or § 5.47a of this chapter. Empty liquor bottles, including liquor bottles of less than 200 ml capacity, which conform to the provisions of subpart E of part 5 or part 19 of this chapter, may be brought into the United States for packaging distilled spirits as provided in part 19 of this chapter.

[T.D. ATF-34, 41 FR 46864, Oct. 26, 1976, as amended by T.D. ATF-62, 44 FR 71718, Dec. 11, 1979]

§ 250.314 Distinctive liquor bottles.

(a) *Application.* Liquor bottles of distinctive shape or design, including bottles of less than 200 ml. capacity, may be brought into the United States from Puerto Rico or the Virgin Islands by an importer (filled bottles) or a bottler (empty bottles). For filled bottles, the importer shall submit ATF Form 5100.31 to the Director for approval prior to bringing such bottles into the United States. For empty bottles, the bottler shall obtain approval from the Director on ATF Form 5100.31 prior to using the bottles. The importer or bottler, as applicable, shall certify as to the total capacity of a representative sample bottle before closure (expressed in milliliters) on each copy of the form. In addition, the applicant shall affix a readily legible photograph (both front and back of the bottle) to the front of each copy of ATF Form 5100.31, along with the label(s) to be used on the bottle. The applicant shall not submit an actual bottle or an authentic model unless specifically requested to do so.

(b) *Approval.* Properly submitted ATF Forms 5100.31 to bring distinctive liquor bottles (filled) into the United

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States from Puerto Rico or the Virgin Islands, or, properly submitted ATF Forms 5100.31 to use distinctive liquor bottles (empty) which have been brought into the United States from Puerto Rico or the Virgin Islands, shall be approved provided such bottles are found by the Director to—

(1) Meet the requirements of 27 CFR Part 5;

(2) Be distinctive;

(3) Be suitable for their intended purpose;

(4) Not jeopardize the revenue; and

(5) Not be deceptive to the consumer.

The applicant shall keep a copy of the approved ATF Form 5100.31, including an approved photograph (both front and back) of the distinctive liquor bottle, on file at his premises. If ATF Form 5100.31 is disapproved, the applicant shall be notified of the Director's decision and the reasons therefor. The applicant importer is responsible for furnishing a copy of the approved ATF Form 5100.31, including a photograph of the distinctive liquor bottle, to Customs officials at each affected port of entry where the merchandise is examined.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1374, as amended (26 U.S.C. 5301))

[T.D. ATF-114, 47 FR 43950, Oct. 5, 1982, as amended by T.D. ATF-242, 51 FR 39526, Oct. 29, 1986]

§ 250.315 [Reserved]

§ 250.316 Bottles not constituting approved containers.

The Director is authorized to disapprove any bottle, including a bottle of less than 200 ml. capacity, for use as a liquor bottle which he determines to be deceptive. The Customs officer at the port of entry shall deny entry of any such bottle containing distilled spirits upon advice from the Director that such bottle is not an approved container for distilled spirits for consumption in the United States.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1374, as amended (26 U.S.C. 5301))

[T.D. ATF-114, 47 FR 43950, Oct. 5, 1982]